

1982 WL 189491 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 22, 1982

*1 Honorable Woodrow Lewis
Post Office Box 53
Darlington, South Carolina 29532

Dear Mr. Chief Justice:

The Supreme Court's admonition to lawyers in State v. Harris, Op. No. 21707, May 24, 1982, concerning compliance with Rule 4, Section 2, requiring deletion of irrelevant matter from the Transcript of Record, and further reference to that opinion in other cases, leads me once again to urge consideration by the Court of a rule change first proposed by the Bar Association in 1958. That is, to simplify the appeal procedure by requiring the entire original record, including the complete trial transcript, to be forwarded by the Clerk of Court to the Supreme Court; while the printed Transcript of Record would contain only those, items the parties deem specifically relevant to the issues on appeal—which is the ultimate aim of the present rule.

The proposal is based upon [Federal Rules of Appellate Procedure, Rule 30](#), copy attached. [Rule 30(c) is of doubtful value, as it is primarily designed for patent and anti-trust cases.] Adoption of a similar rule by the Supreme Court, modified to meet South Carolina's particular needs, would seem to me to have the following advantages:

- (1) Immediate reduction in the cost and size of printed Transcripts of Record, and maximum elimination of irrelevant matter. The typical printed record in Federal appeals is less than one-third the size of State Transcripts.
- (2) The entire record below would be available to the Supreme Court to examine into any matter the Court feels was overlooked by counsel or not sufficiently presented in briefs and oral argument.
- (3) Particularly in criminal cases, the appeal could not be challenged in Post Conviction Relief and later in Federal habeas corpus proceedings on the grounds that: (a) counsel did not present sufficient record to the Supreme Court, or (b) a ground of appeal was overlooked by counsel and not preserved in the Transcript.
- (4) Last, but certainly not least, considerable time and expense would be saved for lawyers and circuit judges by avoiding contests over 'settling the record' for appeal.

The Clerks of Court now forward to the Supreme Court the original exhibits as agreed by the parties. The addition of the original transcript to the package would pose little burden on the Clerks. In the long run this should require much less expense and paper handling than printing and long-term storage of bulky Transcripts of Record.

I respectfully present his proposal for the Court's consideration. For the Judicial Council's possible consideration, I am also forwarding a copy of this letter to Chairman Tom Pope.

Kindest personal regards,
Sincerely,

Frank K. Sloan
Deputy Attorney General

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